

# SENATE BILL 193

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9lr1429  
CF 9lr1938

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By: **Senators Kelley, Conway, Exum, Garagiola, Harrington, Klausmeier,  
Pugh, Simonaire, and Stone**

Introduced and read first time: January 22, 2009

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commission on the Monitoring of Guardians of Disabled Adults**

3 FOR the purpose of establishing the Commission on the Monitoring of Guardians of  
4 Disabled Adults; providing for the composition and staffing of the Commission;  
5 specifying the duties of the Commission; prohibiting Commission members from  
6 receiving certain compensation; requiring reimbursement for certain expenses;  
7 requiring the Commission to report on its findings and recommendations by a  
8 certain date; providing for the termination of this Act; and generally relating to  
9 the Commission on the Monitoring of Guardians of Disabled Adults.

10 BY adding to

11 Article – Estates and Trusts

12 Section 13–708.1

13 Annotated Code of Maryland

14 (2001 Replacement Volume and 2008 Supplement)

15 Preamble

16 WHEREAS, Increasing numbers of disabled adults are subject to  
17 court–appointed guardianships when no less–restrictive alternative is feasible; and

18 WHEREAS, Adult wards of the court lose decision–making rights over their  
19 own person and property to guardians; and

20 WHEREAS, Although Maryland courts require annual accountings of a ward’s  
21 finances, there is no methodic system of verification of these reports; and

22 WHEREAS, No one in the State is assigned to visit the adult wards whose  
23 guardians are private individuals; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Public agencies designated as guardians for disabled adults often  
2 have inherent conflicts of interest because they concurrently serve as direct service  
3 providers for the wards whose well-being the agencies are also charged with  
4 protecting; and

5 WHEREAS, It is essential that guardians of disabled adults be monitored  
6 sufficiently to ensure that the wards are protected from physical abuse, neglect, and  
7 financial exploitation; and

8 WHEREAS, Several other states have adopted guardian training programs and  
9 fiscally prudent guardian monitoring programs that utilize trained volunteers; now,  
10 therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Estates and Trusts**

14 **13-708.1.**

15 (A) **THERE IS A COMMISSION ON THE MONITORING OF GUARDIANS OF**  
16 **DISABLED ADULTS.**

17 (B) **THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:**

18 (1) **ONE MEMBER OF THE SENATE JUDICIAL PROCEEDINGS**  
19 **COMMITTEE, APPOINTED BY THE PRESIDENT OF THE SENATE;**

20 (2) **ONE MEMBER OF THE SENATE FINANCE COMMITTEE,**  
21 **APPOINTED BY THE PRESIDENT OF THE SENATE;**

22 (3) **ONE MEMBER OF THE HOUSE JUDICIARY COMMITTEE,**  
23 **APPOINTED BY THE SPEAKER OF THE HOUSE;**

24 (4) **ONE MEMBER OF THE HOUSE HEALTH AND GOVERNMENT**  
25 **OPERATIONS COMMITTEE, APPOINTED BY THE SPEAKER OF THE HOUSE;**

26 (5) **THE CHIEF JUDGE OF THE COURT OF APPEALS, OR THE**  
27 **CHIEF JUDGE'S DESIGNEE;**

28 (6) **THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S**  
29 **DESIGNEE;**

30 (7) **THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;**

1           **(8) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE**  
2 **SECRETARY'S DESIGNEE;**

3           **(9) THE SECRETARY OF HUMAN RESOURCES, OR THE**  
4 **SECRETARY'S DESIGNEE;**

5           **(10) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S**  
6 **DESIGNEE;**

7           **(11) A MEMBER OF THE MARYLAND STATE BAR ASSOCIATION**  
8 **DESIGNATED BY THE ELDER LAW SECTION COUNCIL;**

9           **(12) A MEMBER OF THE MARYLAND STATE BAR ASSOCIATION**  
10 **DESIGNATED BY THE ESTATE AND TRUST LAW SECTION COUNCIL; AND**

11           **(13) A CONSUMER REPRESENTATIVE DESIGNATED BY AARP.**

12           **(C) THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE**  
13 **SHALL DESIGNATE COCHAIRS OF THE COMMISSION.**

14           **(D) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE**  
15 **STAFF FOR THE COMMISSION.**

16           **(E) A MEMBER OF THE COMMISSION:**

17           **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**  
18 **COMMISSION; BUT**

19           **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**  
20 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**  
21 **BUDGET.**

22           **(F) THE COMMISSION SHALL:**

23           **(1) STUDY BEST PRACTICES REGARDING THE MONITORING OF**  
24 **GUARDIANS OF DISABLED ADULTS;**

25           **(2) STUDY EMERGING PRACTICES IN OTHER STATES REGARDING**  
26 **THE MONITORING OF GUARDIANS OF DISABLED ADULTS; AND**

27           **(3) MAKE RECOMMENDATIONS FOR FISCALLY RESPONSIBLE**  
28 **POLICIES AND PRACTICES FOR ENHANCED MONITORING OF GUARDIANS TO**  
29 **BETTER PROTECT THE HEALTH AND PROPERTY OF ADULT WARDS.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December  
2 15, 2010, the Commission shall report to the Governor and, in accordance with §  
3 2-1246 of the State Government Article, the General Assembly on the Commission's  
4 findings and recommendations.

5           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 July 1, 2009. It shall remain effective for a period of 2 years and, at the end of June 30,  
7 2011, with no further action required by the General Assembly, this Act shall be  
8 abrogated and of no further force and effect.